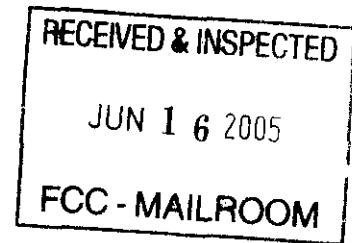


St. Elizabeth School + 4052 S. Wabash Ave. + Chicago, IL 60653

June 14, 2005

CC Docket No. 02-6

Letter of Appeal
Federal Communications Commission
Office of the Secretary
445 - 12th Street, SW
Washington, DC 20554



RE: Demand Payment Letter

Demand Payment Letter Date: April 19, 2005
471 Application Number: 188132
Funding Year: 07/01/2000 – 06/30/2001
Funding Request Numbers: 395292, 396132, 396477, 396977, 398515, 399025,
398745, 399572, 399277
Service Provider Legal Name: LS International, Ltd.
SPIN: 143008533
Billed Entity: St. Elizabeth School
Billed Entity Number: 70985

AMOUNT REQUESTED: \$

Dear Sirs:

This letter is submitted to appeal the Universal Service Administrative Company's (USAC) Demand Payment Letter dated April 19, 2005 (see Attachment A).

St. Elizabeth's School ("Applicant") would like to appeal the USAC's decision to demand payment of the entire amount of the funding requests. As explained further below, the Applicant believes that it has the responsibility to pay the non-discounted portion of the invoices, but should not be required to pay the entire amount of the invoices as set out in the letter.

St. Elizabeth's admits it did not pay the non-discounted portion within the time frame set out by the program. Per earlier statements in the audit and appeals process, the Applicant did not pay due to the fact that the service provider (LS International, Ltd) did not adequately bill the Applicant. The Applicant did not know it was required to pay the amount, since the bill would have to come from the service provider.

Per the Applicant's letter of March 10, 2005 (Attachment B), the Applicant did not intend to disregard the 10% non-discount portion and violate program rules. The

St. Elizabeth School Chicago 773 513-0033

No. of Copies rec'd 0
List ABCDE

6/14/2005

Applicant had indeed secured the resources required to comply with e-rate regulations. The Applicant re-states its case that the vendor did not bill St. Elizabeth's correctly so no payment could be made.

To now come back and require the Applicant pay back the entire amount does not appear justified in this case.

In the Order on Reconsideration and Fourth Order (FCC 04-181, rel. July 30, 2004) the FCC "concluded that recovery actions should be directed to the party or parties that committed the rule or statutory violation in question." The FCC also directed the USAC to determine to whom recovery should be directed in individual cases. In making such a determination USAC must "consider which party was in a better position to prevent the statutory or rule violation, and which party committed the act or omission that forms the basis for the statutory or rule violation."

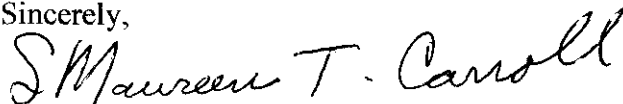
Accordingly, the Applicant believes that since the payment method in this process was a SPIF (Service Provide Invoice Form) – in effect a discounted bill – the vendor had a much better position to prevent the rule violation, not the applicant. In a SPIF situation, the vendor, not the applicant controls the invoicing process. At the time of the original invoicing back in the 2001-2002 period, the SLD approved many vendor SPIF's without an applicant certification.

In contrast, in a BEAR (Reimbursement) situation, the applicant does have more of the responsibility for invoicing, and affirms its adherence to the rules as part of the BEAR Form. In contrast, with the SPIF process, the applicant is at the behest of the vendor. We note that there were several instances of vendors fraudulently billing the SLD without the applicant's knowledge, leading to changes in process by the SLD. Fortunately for applicants, and partly because of USAC / FCC actions, some of these vendors are no longer in business.

In summary, St. Elizabeth's does not want to step away from its responsibility to pay the undiscounted portion and welcomes the opportunity to do so. However, for reasons stated above, the applicant believes it should not have to pay the entire amount of the FRN's and asks that the USAC require any total repayment of the invoices paid from the vendor.

Please do not hesitate to call on any of the matters herein.

Sincerely,



Sr. Maureen T. Carroll
Director of Development

Attachments: USAC Demand Payment Letter – dated April 19, 2005 (E)
St. Elizabeth's Appeal Letter – dated March 10, 2005 (F)

| | |
|---------------------|--|
| Attachment A | Sample of Funding Disbursement Report “Disbursed Funds Recovery Explanation” was the same for all FRN’s |
| Attachment B | Amounts for each FRN |
| Attachment C | Proof of partial payment of “non discounted portion” Invoice and cancelled check |
| Attachment D | Audit correspondence between auditor and Sr. Maureen Source of inaccurate statement that the school did not have the money to pay the bill. The school did indeed have the money budgeted and available at the time or required payment. Inadequate billing process at that time. |
| Attachment E | Copy of “Demand Payment Letter” April 19, 2005 |
| Attachment F | St. Elizabeth Appeal letter to USAC SLD, March 10, 2005 |

Funding Disbursement Report
Form 471 Application Number: 188132

Attachment
A

Funding Request Number: 396132
Services Ordered: INTERNAL CONNECTIONS
SPIN: 143008533
Service Provider Name: LS International, Ltd.
Contract Number: LS200070985
Billing Account Number: (773) 37308640
Site Identifier: 70985
Funding Commitment: \$3,961.80
Funds Disbursed to Date: \$3,961.80
Funds to be Recovered from Applicant: \$3,961.80

Disbursed Funds Recovery Explanation:

On 6/2/2004 a letter was sent to the service provider, LS International, Ltd., advising them of a recovery of funds for this Funding Request Number. Please see the following paragraph for the violation and original decision:

"After a thorough investigation, it has been determined that the entire committed amount of \$3,961.80 will be rescinded from this funding request. During an audit, the auditors examined the applicant's disbursement records and noted that they did not pay their non-discounted portion of services as required. The applicant's response was that the school did not have the money when the invoice was received. The school did not receive any follow-up notification of the outstanding amount from LSI nor double-check the payment. However, the school had budgeted for this 10%. Program rules state: Applicants are required to pay the non-discount portion of the cost of the goods and services to their service provider(s). Service Providers are required to bill applicants for the non-discount portion. The Federal Communications Commission stated that requiring applicants to pay their share would ensure efficiency and accountability in the program. As a result of this violation, SLD will seek recovery of the entire committed amount of \$3,961.80, which has been disbursed."

FCC rules require applicants to pay the non-discount portion of the products or services purchased with universal service discounts. Applicants that do not pay the non-discount portion more than 90 days after completion of services have violated this rule. Consequently, the program rules have been violated. Since this violation was caused by an act or omission of the applicant, recovery will be sought from the applicant and not the service provider.

| Billed Entity Number | | | Billed Entity Name | | | ST ELIZABETH SCHOOL | | | Period 07/01/2000 - 06/30/2001 | | | |
|-----------------------|--|--------|--------------------|-----|------------------|----------------------------------|--------------------------------|-----------------------------------|---------------------------------|------------------------------|----------|--------------|
| Funding Year | | APPL # | FRN # | FRN | Committed Amount | Authorized Disbursements To Date | Service Provider Number (SPIN) | Service Provider Name | Disbursement Authorization Date | Authorized Disbursements SPI | BEAR | Total |
| ----- | | | | | | | | | | | | |
| 07/01/2000-06/30/2001 | | 188132 | 395292 | | \$30,600.00 | \$30,600.00 | 143008533 | LS International, Ltd. | 11/02/2000 | \$30,600.00 | ✓ denied | \$30,600.00 |
| | | | | | | | | | SPIN Total | \$30,600.00 | | \$30,600.00 |
| | | | 396132 | | \$3,961.80 | \$3,961.80 | 143008533 | LS International, Ltd. | 11/02/2000 | \$3,961.80 | ✓ denied | \$3,961.80 |
| | | | | | | | | | SPIN Total | \$3,961.80 | | \$3,961.80 |
| | | | 396477 | | \$1,620.00 | \$1,620.00 | 143008533 | LS International, Ltd. | 11/02/2000 | \$1,620.00 | ✓ denied | \$1,620.00 |
| | | | | | | | | | SPIN Total | \$1,620.00 | | \$1,620.00 |
| | | | 396977 | | \$988.20 | \$988.20 | 143008533 | LS International, Ltd. | 11/02/2000 | \$988.20 | ✓ denied | \$988.20 |
| | | | | | | | | | SPIN Total | \$988.20 | | \$988.20 |
| | | | 398515 | | \$3,600.00 | \$3,600.00 | 143008533 | LS International, Ltd. | 11/02/2000 | \$3,600.00 | ✓ denied | \$3,600.00 |
| | | | | | | | | | SPIN Total | \$3,600.00 | | \$3,600.00 |
| | | | 398745 | | \$22,500.00 | \$22,500.00 | 143008533 | LS International, Ltd. | 11/02/2000 | \$22,500.00 | ✓ denied | \$22,500.00 |
| | | | | | | | | | SPIN Total | \$22,500.00 | | \$22,500.00 |
| | | | 399025 | | \$58,084.20 | \$58,084.20 | 143008533 | LS International, Ltd. | 11/02/2000 | \$58,084.20 | ✓ denied | \$58,084.20 |
| | | | | | | | | | SPIN Total | \$58,084.20 | | \$58,084.20 |
| | | | 399572 | | \$3,600.00 | \$3,600.00 | 143008533 | LS International, Ltd. | 11/02/2000 | \$3,600.00 | ✓ denied | \$3,600.00 |
| | | | | | | | | | SPIN Total | \$3,600.00 | | \$3,600.00 |
| | | | | | | | | Application Total | | \$124,954.20 | | \$124,954.20 |
| | | | | | | | | Total Fund Year Applications | | \$124,954.20 | | \$124,954.20 |
| | | | | | | | | Total Applications All Fund Years | | \$124,954.20 | | \$124,954.20 |

Attachment B

LS INTERNATIONAL LTD.
5100 ACADEMY DRIVE SUITE 400
LISLE, IL 60632

Telephone: 630-515-9900

A Hackmatt
INVOICE

958837

CUSTOMER NO

ST030

SOLD TO:

ST. ELIZABETH SCHOOL
4052 S. WABASH AVE.
CHICAGO, IL 60653-2121

SHIP TO:

ST. ELIZABETH SCHOOL
4052 S. WABASH AVE.
CHICAGO, IL 60653-2121

Telephone: 773-548-4100

Contact: 773-373-8640

| DATE | SHIP VIA | F.O.B. | TERMS | | | |
|-----------------------|--------------|-------------|------------------|--------------------------------|------------|----------------|
| 07/02/01 | | F08 LISLE | NET 30 | | | |
| PURCHASE ORDER NUMBER | ORDER DATE | SALESPERSON | OUR ORDER NUMBER | | | |
| | 07/02/01 | MA | | | | |
| QTY. ORDERED | QTY. SHIPPED | QTY. B.C. | ITEM NUMBER | DESCRIPTION | UNIT PRICE | EXTENDED PRICE |
| 2.00 | 2.00 | 0.00 | SVCCHG | SERVICE CHARGE FOR FRN# 399277 | 114.58 | 229.16 |

THIS INVOICE IS FOR ERATE PROJECT

OUR SPIN# 143008533

471 APPLICATION # 188132

FRN# 399277

THIS INVOICE \$229.16 IS FOR 10% PORTION OF THE CHARGE OF 05/2001 - 06/2001

Total 229.16

acceptance of goods constitutes customer's agreement to pay 1). All costs of collecting the
delinquency created thereby 2) The lower of a 1.5% monthly interest charge or that allowed by

Attachment C

THE CATHOLIC BISHOP OF CHICAGO
A CORP. SOLE
ST. ELIZABETH SCHOOL
50 EAST 41ST ST.
CHICAGO, IL 60653

SEAWAY NATIONAL BANK
OF CHICAGO • ILLINOIS

28556

2-121/710

7/1/2001

PAY

TO THE
ORDER OF

LSI

S **229.16

Two Hundred Twenty-Nine and 16/100*****

DOLLARS

LSI

MEMO

#3537

Jeannette Perry
AUTHORIZED SIGNATURE

⑈028556⑈ ⑆071001216⑆ ⑈00719781⑈01

ST. ELIZABETH SCHOOL

LSI

3537 - Technology Fee

7/1/2001

28556

229.16

School Checking Account #3537

229.16

Security features. Details on back

*Attachment c***INVOICE**

LS INTERNATIONAL LTD.
5100 ACADEMY DRIVE SUITE 400
LISLE, IL 60532

CUSTOMER NO. 958764
ST030

Telephone: 630-515-9900

OLD TO:

ST. ELIZABETH SCHOOL
4052 S. WABASH AVE.
CHICAGO, IL 60653-2121

SHIP TO:

ST. ELIZABETH SCHOOL
4052 S. WABASH AVE.
CHICAGO, IL 60653-2121

Telephone: 773-548-4100
Contact: *Miss Thompson*

773-373-8640

| DATE | SHIP VIA | F.O.B. | TERMS | | | |
|-----------------------|--------------|-------------|------------------|--------------------------------|------------|----------------|
| 05/01/01 | | FOB LISLE | NET 30 | | | |
| PURCHASE ORDER NUMBER | ORDER DATE | SALESPERSON | OUR ORDER NUMBER | | | |
| | 05/01/01 | MA | | | | |
| QTY. ORDERED | QTY. SHIPPED | QTY. B.O. | ITEM NUMBER | DESCRIPTION | UNIT PRICE | EXTENDED PRICE |
| 4.00 | 4.00 | 0.00 | SVCCHG | SERVICE CHARGE FOR FRN# 399277 | 114.58 | 458.32 |

THIS INVOICE IS FOR ERATE PROJECT
OUR SPIN IS 143008533
471 APPLICATION IS 188132
FRN# 399277

THIS INVOICE \$458.32 IS FOR 10% PORTION OF THE CHARGE OF 1/2001 - 4/2001 CHARGE

Total 458.32

acceptance of goods constitutes customer's agreement to pay 1). All costs of collecting the
indebtedness created thereby; 2). The lower of a 1.5% monthly interest charge or that allowed by
or all not due interest and charges.

Thank You!

Attachment c

THE CATHOLIC BISHOP OF CHICAGO
A CORP. SOLE
ST. ELIZABETH SCHOOL
50 EAST 41ST ST.
CHICAGO, IL 60653

SEAWAY NATIONAL BANK
OF CHICAGO • ILLINOIS

28489-

2-121/710

4/1/2001

PAY

TO THE
ORDER OF

LSI

\$ **458.32

Four Hundred Fifty-Eight and 32/100*****

DOLLARS

LSI

MEMO

#3537

Jeannette Perry
AUTHORIZED SIGNATURE

⑈028439⑈ ⑆071001216⑆ ⑈00719781⑈01

ST. ELIZABETH SCHOOL

LSI

3537 - Technology Fee

4/1/2001

28489
458.32

School Checking Account #3537

458.32

Security features. Details on back

Subj: **USAC internal audit results**
Date: 4/7/03 2:54:05 PM Eastern Daylight Time
From: nokudaira@universalservice.org
To: maureentc@aol.com
Sent from the Internet ([Details](#))

Attachment D

Sister Maureen,

Hi. We usually have an exit conference at the completion of each audit over the phone with the applicant. But I was told that you are out of town till May. Please allow me to contact you by e-mail. Since my due date is coming around the corner, I need to close this audit as soon as possible. Noted below are our findings.

1. The service provider acknowledgement section (Block 4) of the BEAR form submitted for the Ameritech telephone service was not signed by the service provider representative, but instead by the E-rate administrator at school.
2. The applicant did not pay their non-discounted portion (10%) of the internal connection cost.
3. LS International obtained the reimbursement for the service provided outside of the funding year three. Also, LS International filed SPI forms for the service that were not yet provided at that time (service providers can ask for a reimbursement only for the services completed.)

If you have any responses to these findings, please let me know. I will include them in our report (especially, for the second exception, you may want to tell us why you did not pay. Is it because you did not have enough money? Did the service provider waive the amount? etc.) For the third item, I will contact Lee Lu for a response.

Thank you.

Nobuko Okudaira
Staff Internal Auditor
USAC
2120 L Street, N.W.
Suite 600
Washington, D.C. 20037
Direct: (202) 263-1649
Cell: (301) 509-0021
Fax: (202) 776-0080

Subj: **Re: USAC internal audit results**
Date: 4/11/03 1:57:32 PM Eastern Daylight Time
From: MaureenTC
To: nokudaira@universalservice.org

Attachment D

Dear Nokudaira,

It appears we did not pay the 10% because we did not have the money at the time the bill was sent. We have no record of receiving follow up notification of bills outstanding with LSI. We had budgeted for this 10%, but did not double check payment.

Thank you. I believe we have done the best we know in working with this audit. I sincerely hope there is not **serious** repercussions about #2 concerns. At the beginning of USAC applications, there were many processing **items** that seemed pretty complicated. I am sure, as you witnessed that the intent of the Erate funding has been **fulfilled** at St. Elizabeth. The students in a poverty level school have been enriched by technology opportunities otherwise never available to the.

Thank you for your professional audit.

Sincerely,

Sr. Maureen T. Carroll

Friday, April 11, 2003 America Online: MaureenTC



Attachment
E

**Universal Service Administrative Company
Schools & Libraries Division**

Demand Payment Letter

Funding Year 2000: 7/01/2000 - 6/30/2001

April 19, 2005

**Maureen T. Carroll
ST ELIZABETH SCHOOL
4052 S WABASH AVE
CHICAGO, IL 60653 2121**

**Re: Form 471 Application Number: 188132
Funding Year: 2000
Applicant's Form Identifier: St. E 2000-2001
Billed Entity Number: 70985
FCC Registration Number:
SPIN Name: LS International, Ltd.
Service Provider Contact Person: Jim Taylor**

You were previously sent a Recovery of Erroneously Disbursed Funds Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Disbursement Report (Report) attached to the Recovery of Erroneously Disbursed Funds Letter. A revised copy of that Report is attached to this letter. Immediately preceding the Report, you will find a guide that defines each line of the Report.

In the Order on Reconsideration and Fourth Report and Order (FCC 04-181, rel. July 30, 2004) (Fourth Report and Order), the FCC "conclude[d] that recovery actions should be directed to the party or parties that committed the rule or statutory violation in question." The FCC also directed the Universal Service Administrative Company (USAC) to determine to whom recovery should be directed in individual cases. In making such a determination USAC must "consider which party was in a better position to prevent the statutory or rule violation, and which party committed the act or omission that forms the basis for the statutory or rule violation."

Pursuant to the Fourth Report and Order the revised recovery approach applies to all FRNs for which USAC had not yet issued a first Demand Payment Letter as of September 17, 2004 (the effective date of the Order). The purpose of this letter is to:

- Notify you of the exact amount of recovery being directed towards you.
- Give you an opportunity to appeal USAC's determination that recovery should be directed towards you. Please note that the deadline for appealing the decision to seek recovery of improperly disbursed funds is determined by the date of the Recovery of Erroneously Disbursed Funds Letter and not this letter.

Attachment F

St. Elizabeth School 4052 S. Wabash Ave.
Chicago, IL 60653
Sr. Maureen T. Carroll, Director of Development
773 513-0033

March 10, 2005

USAC
Schools and Libraries Division
Box 125 Correspondence Unit
80 South Jefferson Rd.
Whippany, NJ 07981

Dear Administrator,

This letter is coming to ask advice and to seek clarification on The Administrator's Decision on Appeal—Funding Year 2000-2001. I need some clarification on the process for continuing an appeal to the FCC for the following numbers: 395292, 396132, 396477, 396977, 398515, 399025, 398745, 399572, 399277.

In the letter, dated February 16, 2005 the Decision on Appeal: **Denied**

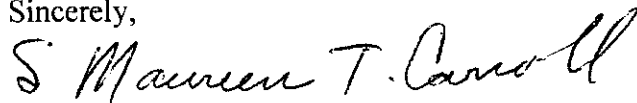
There are some statements in the case as summarized by SLD that would give the impression the school deliberately planned to disregard the obligation to pay the 10% non-discount portion and violated the rules. At the time of the application the school had indeed secured all the resources required to successfully comply with all regulations. The vendor did not adequately bill the school so that the break down lies in a faulty billing process.

Please advise us of a person in SLD that we can have a phone conversation in order to clarify the implications of this denial of appeal.

We further need clarification of FRN #399277. Decision of Appeal: **Dismissed**. We request a phone conversation that explains this status.

A response to the FCC would need to be filed by April 16th. We appreciate your advice in this matter.

Sincerely,



Sr. Maureen T. Carroll
maureentc@aol.com